

## Department of Labor

2909.404

and the Director, Directorate of Procurement and Grant Management, to the Under Secretary.

[50 FR 8922, Mar. 5, 1985]

### **PART 2908—REQUIRED SOURCES OF SUPPLIES AND SERVICES**

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

#### **Subpart 2908.8—Acquisition of Printing and Related Supplies**

##### **2908.802 Policy.**

(a) The Office of Printing, Directorate of Administrative Services and Safety and Health Programs, has been designated as the DOL liaison with the Joint Committee on Printing (JCP) and the Public Printer, Government Printing Office (GPO), on all matters related to printing.

(b) Except as provided in paragraphs 35-2 through 35-4 of the "Government Printing and Binding Regulations" of the Congressional Joint Committee on Printing, inclusion of printing as defined in FAR 8.801 in contracts for supplies and services is prohibited unless specifically approved in writing by the Directorate of Administrative Services and Safety and Health Programs.

[50 FR 8923, Mar. 5, 1985]

### **PART 2909—CONTRACTOR QUALIFICATIONS**

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AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8923, Mar. 5, 1985, unless otherwise noted.

#### **Subpart 2909.1—Responsible Prospective Contractors**

##### **2909.105 Procedures.**

##### **2909.105-1 Obtaining information.**

(a) In addition to the sources of information listed in FAR 9.105-1(c) to support determinations of responsibility or nonresponsibility, the contracting officer shall use, if available, performance evaluation reports on section 8(a) contractors (section 8(a) of the Small Business Act as amended (15 U.S.C. 637(a)) and construction and architect-engineer contractors (see 2936.201 and 2936.604).

(b) Contracting officers may obtain credit reports prior to the issuance of any loan, loan guarantee, contract or grant through the credit bureau service. The National Capital Service Center will award a contract for the credit bureau service for use by all DOL contracting activities until such services become available through an established GSA Federal Supply Schedule.

[50 FR 8923, Mar. 5, 1985, as amended at 51 FR 40374, Nov. 6, 1986]

#### **Subpart 2909.4—Debarment, Suspension, and Ineligibility**

##### **2909.400 Scope of subpart.**

This subpart prescribes DOL policies and procedures governing the debarment and suspension of contractors, the listing of debarred and suspended contractors, contractors declared ineligible (see FAR 9.403) and distribution of the list.

##### **2909.404 Consolidated List of Debarred, Suspended, and Ineligible Contractors.**

(a) The Directorate of Procurement and Grant Management, is responsible for accomplishing the actions required in FAR 9.404(c).

(b) The Directorate of Procurement and Grant Management, upon receipt of monthly issues of the consolidated list from GSA, shall distribute the issues to the heads of contracting activities.

(c) Weekly supplements to monthly lists shall be furnished to the heads of contracting activities by the Directorate of Procurement and Grant Management.

**2909.405 Effect of listing.**

The Director, Directorate of Procurement and Grant Management, is authorized to make the determinations listed in FAR 9.405(a). Requests for such determinations shall be submitted by the head of the contracting activity to the Director, Directorate of Procurement and Grant Management.

**2909.405-1 Continuation of current contracts.**

The Director, Directorate of Procurement and Grant Management, is authorized to take the actions listed in FAR 9.405-1.

**2909.406 Debarment.**

**2909.406-1 General.**

(a) The Director, Directorate of Procurement and Grant Management, is the debarring official for DOL and is authorized to debar a contractor for any of the causes in FAR 9.406-2, using the procedures in 2909.406-3.

(b) Exceptions to debarment made by another Executive Agency shall be made by the Director, Directorate of Procurement and Grant Management, in accordance with the conditions in FAR 9.406-1(c).

**2909.406-3 Procedures.**

(a) *Investigation and referral.* Whenever a cause for debarment, as listed in FAR 9.406-2, becomes known to a DOL employee, the head of the contracting activity affected shall be notified. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of the Inspector General, as appropriate, and submit a formal recommendation which documents the cause for debarment to the Director, Directorate of Procurement and Grant Management.

(b) *Notice of proposal to debar.* Based upon review of the recommendation to debar and consultation with the Office of the Solicitor and Office of the Inspector General, as appropriate, the Director, Directorate of Procurement and Grant Management, shall initiate proposed debarment by taking the actions listed in FAR 9.406-3(c) and advising the contractor of DOL's rules under 2909.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.406-3(b)(2), the Director, Directorate of Procurement and Grant Management, shall afford the contractor the opportunity to appear at an informal factfinding as required by FAR 9.406-3(b)(2)(i). The hearing shall be conducted by the Office of Administrative Law Judges and shall be held at a date and location convenient to the parties concerned. Subject to the provisions of 29 CFR part 18, the contractor and any specifically named affiliates, may be represented by counsel or any duly authorized representative. Witnesses may be called by either party. The proceedings shall be conducted expeditiously and in such a manner that each party will have a full opportunity to present all information considered pertinent to the proposed debarment. A transcript of the proceedings shall be made available to the contractor under the conditions in FAR 9.406-3(b)(2)(ii).

(d) *Decision and notice.* The Director, Directorate of Procurement and Grant Management, shall make a decision on imposing debarment in accordance with the procedures in FAR 9.406-3(d), findings of fact of the Administrative Law Judge, and the conditions in FAR 9.406-4 and 9.406-5. Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the procedures in FAR 9.406-3(e).

**2909.407 Suspension.**

**2909.407-1 General.**

(a) The Director, Directorate of Procurement and Grant Management, is the suspending official for DOL and is authorized to suspend a contractor for any of the causes in FAR 9.407-2, using the procedures in 2909.407-3.

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(b) The Director, Directorate of Procurement and Grant Management, is authorized to make the statement regarding suspension by another agency suspending official under the conditions in FAR 9.407-1(d).

### 2909.407-3 Procedures.

(a) *Investigation and referral.* Whenever a cause for suspension, as listed in FAR 9.406-2, becomes known to a DOL employee, the head of the contracting activity affected shall be notified. The head of the contracting activity shall consult with the Office of the Solicitor and the Office of the Inspector General, as appropriate, and submit a formal recommendation, which documents the cause for suspension, to the Director, Directorate of Procurement and Grant Management.

(b) *Notice of suspension.* Based upon review of the recommendation to suspend and consultation with the Office of the Solicitor and the Office of the Inspector General, as required, the Director, Directorate of Procurement and Grant Management, shall initiate suspension by taking the actions listed in FAR 9.407-3(c) and advising the contractor of DOL's rules under 2909.4.

(c) *Factfinding proceedings.* For actions listed under FAR 9.407-3(b)(2), the Director, Directorate of Procurement and Grant Management, shall afford the contractor the opportunity to appear at an informal hearing as required by FAR 9.407-3(b)(2)(i). The hearing shall be conducted under the conditions in 2909.407-3(c).

(d) *Suspension decisions.* The Director, Directorate of Procurement and Grant Management, shall make a final decision on suspension as prescribed in FAR 9.407-3(d). Notice of the decision shall be provided to the contractor and any affiliates involved in accordance with the provisions in FAR 9.407-3(d)(4).

### Subpart 2909.5—Organizational Conflicts of Interest

#### 2909.503 Waiver.

(a) The Director, Directorate of Procurement and Grant Management, is authorized to waive any general rule or procedure in FAR 9.5 when its application in a particular situation would not

be in the Government's interest. Pursuant to FAR 9.503, this authority may not be redelegated.

(b) Requests for waivers shall be made by the head of the contracting activity to the Director, Directorate of Procurement and Grant Management. Each request shall include:

(1) An analysis of the facts involving the potential or actual conflict including benefits and detriments to the Government and prospective contractors;

(2) A discussion of the factors which preclude avoiding, neutralizing, or mitigating the conflict; and

(3) Identification of the provision(s) in FAR subpart 9.5 to be waived.

(c) In making determinations under 2909.503(a), the Director, Directorate of Procurement and Grant Management, shall request the opinion of the Office of the Solicitor.

### 2909.507 Procedures.

(a) If a prospective contractor disagrees with the decision of a contracting officer regarding an organizational conflict of interest provision and requests higher level review in accordance with FAR 9.507(c)(4) the matter shall be referred to the Director, Directorate of Procurement and Grant Management for review and final decision.

(b) Referrals shall be made by the head of the contracting agency concerned and include the contracting officer's decision and the position of the prospective contractor.

(c) In making determinations under 2909.507(a), the Director, Directorate of Procurement and Grant Management, shall request the opinion of the Office of the Solicitor.

## PART 2910—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

### Sec.

2910.004 Selecting specifications or descriptions for use.

2910.004-70 Brand name products or equal.

2910.007 Deviations.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

SOURCE: 50 FR 8924, Mar. 5, 1985, unless otherwise noted.